under the Fourteenth Amendment, if the case were before them. In *Green* v. *Frazier,* a statute creating a state bank, mill and elevator association, and a home building association, under the authority of the constitution of the state, was held valid, considering the peculiar condition of the state. The court says, "With this united action of people, legislature and constitution, we are not at liberty to interfere unless it is clear beyond reasonable controversy that rights secured by the Federal Constitution have been violated." This would seem to be the rule even where there is no sanction by the state constitution. If so, another strong case is *Jones* v. *Portland,* 245 U. S. 217, where a municipal wood and coal yard, authorized by statute alone, fuel to be furnished at cost to buyers, was upheld. To be sure, the court considered it a means of furnishing heat, and sufficiently analogous to furnishing light and water to be a public purpose. Massachusetts has held municipal fuel yards to be not a public purpose; *Opinion of the Justices,* 155 Mass. 598, *Opinion of the Justices,* 182 Mass, 605. See *Baker* v. *Grand Rapids,* 142 Mich. 687. To determine whether or not a particular tax is for a public purpose, the direct benefit to the public should be taken into account, also a consideration of what is feasible for the government to do, under existing conditions; i. e., whether the particular function could not be better done by private individuals, and also, whether conditions, under which it has been considered unfeasible have changed. See *Loan Association* v. *Topeka,* 20 Wall. 655, *Opinions of the Justices, supra,* and in 211 Mass. 624. A county cement plant, without a constitutional provision authorizing it, was held not to be a public purpose in *Los Angeles* v. *Lewis,* 175 Cal. 777. Allowing municipal waterworks to manufacture ice was held to be a public purpose in *Holton* v. *Camilla,* 134 Ga. 560. In *Union Ice and Coal Co.* v. *Ruston,* 135 La. 898, a municipal ice plant was held not a public purpose, but the court said, "no one would contest the right * * * if the town were of proper size for such a thing," under a state constitution requiring "strict" public purpose, for municipal undertakings. *North Dakota* v. *Nelson Co.,* 1 N. D. 88, under constitutional prohibition against taxing for aid of individuals except for necessary support of the poor, a statute authorizing distribution of seed corn to needy farmers on credit, in time of drouth, was held valid. *Jones* v. *Portland, Green* v. *Frazier, supra,* and the principal case seem to show a tendency towards paternalism, for these undertakings seem to be peculiarly fitted for private undertaking, although municipal fuel yards may be perfectly proper. If a state can be permitted to operate cement plants, there seems to be little it could not do.

CRIMINAL LAW—ASSAULT WITH INTENT TO ROB—CLAIM OF OWNERSHIP.—Claiming that Green owed him $150, defendant demanded payment at the point of a pistol, and upon Green's saying that he had nothing, defendant hit him on the head with the pistol. *Held,* if defendant in good faith believed that Green owed him the money, his offense was not assault with intent to rob. *Barton* v. *State,* (Tex., 1921), 227 S. W. 317.

It is well settled that the taking, by force or putting in fear, of specific property under bona fide claim of right thereto, is not robbery, *Glenn* v.

State, 49 Tex. Cr. R. 349; or larceny, *People* v. *Hoagland*, 138 Cal. 338; *State* v. *Wasson*, 126 Iowa 320, because of the absence of the *animus furandi*. The proposition that such taking of general property to satisfy a debt is not robbery now seems to be as well established, for the instant case overrules the one outstanding authority to the contrary. *Fannin* v. *State*, 51 Tex. Cr. R. 41. Neither is such taking to satisfy a debt larceny. *Johnson* v. *State*, 73 Ala. 523; *Com.* v. *Stebbins*, 8 Gray 492. Of course, there must be a bona fide belief in the claim of right. Some courts hold it robbery when the loser in a gambling transaction forces the winner to return his money. *Carrol* v. *State*, 42 Tex. Cr. R. 30. See *Grant* v. *State*, 115 Ga. 205, contra. As far as the law is concerned, a regime of debt collectors "with their courts in their right hip pockets" is discouraged only by the penalties for trespass, breach of peace, etc. In accord with the instant case, see *Reg.* v. *Hemming*, 4 F. & F. 50; *State* v. *Hollyway*, 41 Iowa 200; *State* v. *Brown*, 104 Mo. 365, cited therein.

DAMAGES—CONTINUOUS TRESPASS OR REPEATED WRONG.—Defendant coal company had worked over the boundary between its own claim and that of the plaintiff, and removed from the plaintiff's land large quantities of coal. It was admitted by the officers of the defendant corporation that they had knowledge of the encroachments upon plaintiff's property as early as January, 1913, so that the original trespass must have occurred prior to that date. Apparently, however, the defendants continued to work across the line after that time and to remove coal from the plaintiff's claim. Defendants afterwards abandoned these workings and allowed the superincumbent soil to cave in. Late in 1916, the plaintiff and his engineer recognized that these encroachments had occurred, but were denied admission to the defendant's mine to ascertain the extent of the encroachments, on the plea that they could not get back to the division line because of the cave-in. Suit was begun March 28, 1918. The statute of limitations was pleaded. It was *held*, that "the statute begins to run only from the time of the actual discovery of the trespass or from the time when discovery was reasonably possible," not from the time of the trespass. *Petrelli* v. *West Virginia Coal Co.*, (W. Va., 1920), 104 S. E. 103.

Attention has before been called to the fact that neither courts nor legislatures seem to be satisfied with the conclusions reached in the English case of *Clegg* v. *Dearden*, (1848), 12 Ad. and El. (N. S.) 575, and in the Michigan case of *The National Copper Co.* v. *Minnesota Mining Co.*, (1885), 57 Mich. 83, on the subject of so-called continuous trespass. Cf. 19 MICH. L. REV. 375 In the instant case the court of West Virginia has followed the court of Pennsylvania in its solution of the problem, coming to a conclusion which satisfies the sense of justice, but the legal theory of which is somewhat difficult to explain. The West Virginia court cites *Lewey* v. *H. C. Fricke Coal Co.*, (1895), 166 Pa. 536, as a precedent for its decision. See also *Kingston* v. *Lehigh Valley Coal Co.*, (1913), 241 Pa. 469. Although this argument gives us a just decision, by postponing the time when the statute begins to run, it is a little difficult to see on principle how the *discovery* of a wrong can be